

# United States District Court

EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

UNITED STATES OF AMERICA

§

vs.

§

Case No. 4:07cr75

JONATHAN MICHAEL EARNHART

§

(Judge Schell)

§

## MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

Came on for consideration the above-referenced criminal action, this court having heretofore referred the request for the revocation of Defendant's supervised release to the United States Magistrate Judge for proper consideration. Having received the report of the United States Magistrate Judge pursuant to its order, and having received Defendant's waiver of right to object and waiver of right to be present and speak at sentencing, this court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts same as the findings and conclusions of the court. It is therefore,

**ORDERED** that the Magistrate Judge's Report is **ADOPTED** as the opinion of the court.

It is further

**ORDERED** that Defendant's supervised release is hereby **REVOKED**. It is further

**ORDERED** that Defendant is sentenced to a term of imprisonment of twelve (12) months followed by twenty-four (24) months of supervised release. It is further

**ORDERED** that within 72 hours of release from the custody of the Bureau of Prisons, the defendant shall report in person to the probation office in the district to which the defendant is released. While on supervised release, the defendant shall not commit another federal, state, or local crime, and shall comply with the standard conditions that have been adopted by the court, and shall comply with the following additional conditions:

The defendant shall pay any financial penalty that is imposed by this judgment and that remains unpaid at the commencement of the term of supervised release.

The defendant shall provide the probation officer with access to any requested financial information for purposes of monitoring his ability to make restitution payments and maintain lawful employment.

The defendant shall not incur new credit charges or open additional lines of credit without the approval of the probation officer unless payment of any financial obligation ordered by the Court has been paid in full.

The defendant shall not participate in any form of gambling unless payment of any financial obligation ordered by the Court has been paid in full.

The defendant shall not illegally possess a controlled substance, and shall refrain from any unlawful use of a controlled substance.

The Court finds there is a low risk of future substance abuse by the defendant and suspends the requirement that he submit to mandatory drug testing.

It is further ordered that the defendant is to pay restitution totaling \$518,691.94 to the victims listed in the "Victim Impact" section of the Presentence Report. The Court orders the restitution payments to begin immediately. Any amount that remains unpaid when the defendant's supervision commences is to be paid on a monthly basis at a rate of at least 10% of the defendant's gross income, to be changed during supervision, if needed, based on the defendant's changed circumstances, pursuant to 18 U.S.C. § 3664(k). Additionally, at least 50% of receipts received from gifts, tax returns, inheritances, bonuses, lawsuit awards, and any other receipt of money (to include, but not limited to, gambling proceeds, lottery winnings, and found money) must be paid toward the unpaid restitution balance within 5 days of receipt. Restitution is payable by cashier's check or money order made out to the United States District Court and forwarded to the Fine and Restitution Section, U.S. Courts, 1910 ESE Loop 323, #287, Tyler Texas 75701.

It is further **ORDERED** that Defendant's Objection to Report and Recommendation of United States Magistrate Judge filed on December 17, 2013, is STRICKEN due to Defendant's waiver of right to file objections.

**SIGNED this the 18th day of February, 2014.**

  
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RICHARD A. SCELL  
UNITED STATES DISTRICT JUDGE